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11 Attorneys for Defendant
12 SYMANTEC CORPORATION

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA — SAN FRANCISCO DIVISION**

15
16 DIANE MAROLDA, on behalf of herself and all
others similarly situated,

17 Plaintiff,

18 v.

19 SYMANTEC CORPORATION,

20 Defendant.
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Case No. 3:08-CV-05701-MHP

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO MODIFY SCHEDULING
ORDER**

Courtroom 15, 18th Floor

Honorable Judge Marilyn Hall Patel

1 WHEREAS, on April 6, 2009, the Court entered an Order scheduling Plaintiff
2 Diane Marolda ("Plaintiff") to file her First Amended Complaint on or before April 20, 2009.

3 WHEREAS, on April 20, 2009, Plaintiff filed her First Amended Complaint.

4 WHEREAS, May 4, 2009, would be the date on which Symantec's response to the
5 First Amended Complaint would be due.

6 WHEREAS, on April 30, 2009, Defendant Symantec Corporation ("Symantec" or
7 "Defendant") raised to Plaintiff's counsels' attention an issue it believes pertains to the First
8 Amended Complaint.

9 WHEREAS, on May 1, 2009, counsel for Plaintiff and counsel for Defendant met
10 and conferred to discuss the aforementioned information and the Defendant has made a proposal
11 that might vitiate the need for answering or moving to dismiss the First Amended Complaint.

12 WHEREAS, on May 1, 2009, counsel for Plaintiff requested to have the weekend
13 to consider Defendant's proposal and/or formulate a response.

14 WHEREAS, in light of the foregoing, the parties have conferred and agreed,
15 subject to the Court's approval, to modify the scheduling order in this matter set forth in the
16 minute order after the Case Management Conference of April 6, 2009, to extend Symantec's time
17 to file their motion to dismiss Plaintiff's First Amended Complaint until May 8, 2009 (a five day
18 extension); now therefore,

19 PURSUANT TO CIVIL LOCAL RULE 6-2(a), IT IS HEREBY STIPULATED
20 AND AGREED, by and between the undersigned counsel, as follows:

21 1. Symantec shall have up to and including May 8, 2009, to move to dismiss
22 Marolda's First Amended Complaint.

23 2. Plaintiff shall have up to and including May 22, 2009, to oppose Symantec's
24 motion to dismiss.

25 3. Symantec shall have up to and including May 29, 2009, to reply to Plaintiff's
26 opposition to Symantec's motion to dismiss.

27 4. The hearing regarding Symantec's motion to dismiss previously scheduled for
28 June 8, 2009 shall now be scheduled for June 15, 2009, pursuant to Local Rule 7-2(a) requiring

all hearings to be scheduled not less than thirty-five days after service of a motion, or such other time as the Court may set.

IT IS SO STIPULATED.

Dated: May 1, 2009

WEIL, GOTSHAL & MANGES LLP

By: /s/ Richard A. Rothman
Richard A. Rothman
Bruce A. Colbath
Sarah E. Barrows
Attorneys for Defendant
SYMANTEC CORPORATION

Dated: May 1, 2009

By: /s/ Evan J. Smith
Evan J. Smith
BRODSKY & SMITH, LLC
9595 Wilshire Blvd., Ste. 900
Beverly Hills, CA 90212

-and-

By: /s/ Thomas M. Mullaney
Thomas M. Mullaney
Law Offices of Thomas M. Mullaney
708 Third Ave., Suite 2500
New York, NY 10017

-and-

By: /s/ Larry Drury
Larry Drury
Larry Drury, Ltd.
205 West Randolph St., Ste. 1430
Chicago, Illinois 60606

Attorneys for Plaintiff
DIANE MAROLDA, on behalf of
herself and all others similarly
situated

1 Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest
 2 under penalty of perjury that concurrence in the filing of the document has been obtained from
 3 Evan J. Smith, Thomas M. Mullaney, and Larry Drury.

4 **SUPPORTING DECLARATION OF SARAH E. BARROWS**

5 Pursuant to Civil L.R. 6-2, I, Sarah E. Barrows, declare as follows:

6 1. I am an attorney admitted to practice in the State of California and in the U.S.
 7 District Court for the Northern District of California, and Counsel with the firm of Weil, Gotshal
 8 & Manges LLP, attorneys of record for defendant Symantec Corporation. The matters referred to
 9 in this declaration are based on my personal knowledge, unless indicated that they are based upon
 information and belief, and if called as a witness I could, and would, testify competently to those
 matters.

10 2. The factual representations made in the above Stipulation are true. The
 11 parties have met and conferred and agree that the schedule should be extended so that Plaintiff
 can consider Symantec's request that the First Amended Complaint in this matter be withdrawn,
 obviating the need for Symantec to file its motion to dismiss.

12 3. I am informed and believe that pursuant to stipulation, the parties agreed to
 13 extend the time for Symantec to answer or otherwise respond to Plaintiff's initial complaint filed
 on December 18, 2008.

14 4. As set forth in the above Stipulation, this Stipulation will modify the schedule
 15 in this case in the following manner:

- 16 • Symantec will have up to and including May 8, 2009, to file its motion
 to dismiss Plaintiff's First Amended Complaint.
- 17 • Plaintiff Diane Marolda shall have up to and including May 22, 2009,
 18 to oppose Symantec's motion to dismiss.
- 19 • Symantec shall have up to and including May 29, 2009, to reply to
 20 Plaintiff's opposition.
- 21 • The hearing on Symantec's motion to dismiss shall be Monday June
 15, 2009, at 2:00 p.m., or such other time as the Court may set.

22 I declare under penalty of perjury under the laws of the United States of America
 23 that the foregoing is true and correct. Executed this 1st day of May 2009 at Redwood Shores,
 24 California.

25 /s/ Sarah E. Barrows
 26 Sarah E. Barrows

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

DIANE MAROLDA, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

SYMANTEC CORPORATION,

Defendant.

Case No. 3:08-CV-05701-MHP

~~[PROPOSED]~~ **ORDER TO MODIFY
SCHEDULING ORDER**

Courtroom 15, 18th Floor

Honorable Judge Marilyn Hall Patel

PURSUANT TO THE STIPULATION OF THE PARTIES, IT IS ORDERED that Symantec shall have up to and including May 8, 2009, to file its motion to dismiss Plaintiff's First Amended Complaint filed by Plaintiff Diane Marolda, on behalf of herself and all others similarly situated; Plaintiff Diane Marolda shall have up to and including May 22, 2009, to oppose Symantec's motion to dismiss; Symantec shall have up to and including May 29, 2009, to reply; the hearing on Symantec's motion to dismiss shall be Monday, June 15, 2009, at 2:00 p.m., or such other time as the Court may set.

Dated: 5/5/2009

